



**REGULAR MEETING**  
**PUBLIC EMPLOYEES' RETIREMENT BOARD**

**DECEMBER 13, 2007**

The regular meeting was called to order by President Jay Klawon at 8:30 a.m. Thursday, December 13, 2007. Roll call was taken with all members of the Board being present. Board members and staff present were:

Jay Klawon, President  
John Paull, Vice President  
Robert Griffith, Member  
Troy McGee, Member  
John Nielsen, Member  
Ray Peck, Member  
Terry Smith, Member  
Roxanne Minnehan, Executive Director  
Scott Miller, Legal Counsel  
Anna Garza, Executive Assistant

**OPEN MEETING**

Jim Kembel, MACOP/MPPA; Pam Buey, MACOP; Beth Long, Great West Retirement Services; Ed Cleary, Dan Cotrell, Scott Moore, Rick Ryan and Jack Trethewey, members of the Montana State Firemen's Association; and Kim Flatow, Member Services Bureau Chief; Barb Quinn, Fiscal Services Bureau Chief; and Diana Stitt, DC/Education Bureau Benefits Technician, joined the meeting.

**MINUTES OF OPEN MEETING**

The minutes of the open meeting of November 1, 2007 were presented. Mr. John Paull moved that the minutes of the previous open meeting be approved. Mr. John Nielsen seconded the motion. Upon being submitted to vote, the motion was duly carried with all seven members voting aye.

The minutes of the Board Retreat of November 2, 2007 were presented. Mr. John Nielsen moved that the minutes of the Board Retreat be approved. Mr. Terry Smith seconded the motion. The motion was duly carried with all seven members voting aye.

**Public Comment** – No public comment.

**EXECUTIVE DIRECTOR'S REPORT** – Roxanne Minnehan, Executive Director

**Board Education – HB 771** – Roxanne Minnehan

Ms. Minnehan stated that HB 771 was introduced by Representative William Jones. It is an act generally revising actuarial valuation and reporting requirements related to the investments and benefits of the statewide public employee retirement systems. She then discussed the new requirements of the bill. The Board of Investments (BOI) must report asset allocation, past and expected investment performance, investment goals and strategies and investment comparison with peers in other states for each retirement system trust fund to the PERB and TRB. The PERB and TRB must, in turn, present to the BOI financial, actuarial and any benefit changes being considered. Each statutorily required report must be available to the legislative services division as soon as the report is published. Actuarial Valuations are not required annually and must be provided to the legislature. MPERA's Comprehensive Annual Financial Report now must also be provided to the legislature. Ms. Minnehan stated that she and Mr. Dave Senn of Teachers Retirement reported to the BOI last month on November 7, 2007 and the BOI will be presenting to the PERB today. Ms. Minnehan stated that the intent of this legislation is to keep communication open between the Boards, with the Governor and with the legislature.

**Board of Investments Report** – Carroll South/Clifford Sheets

Mr. Carroll South and Mr. Clifford Sheets presented Public Employee Retirement System investment updates. They provided an investment portfolio information handout, a Public Employees Retirement System Investment Report and a memorandum from Mr. Carroll South to the Legislative Finance Committee regarding Short Term Investment Pool (STIP) Investments/Withdrawals to the Board members and the audience. For further information regarding their presentation, please see the attached handouts at the provided link at the end of these minutes.

**Board Committee Appointments** – Jay Klawon

The Board President appointed the following individuals to the following Board Committees:

**Personnel Committee:** Jay Klawon, Chair, Ray Peck, Member, John Nielsen, Member.

**Legislative Committee:** Robert Griffith, Chair, Troy McGee, Member, John Paull, Member.

**Joint Issues Committee Reps:** Jay Klawon and John Paull.

**Audit Committee:** Terry Smith, Chair, Ray Peck, Member.

**457 Stable Value Investment Guidelines – Proposed Modifications** – Roxanne Minnehan

Ms. Minnehan stated that these are proposed modifications from PIMCO. She explained that Exhibit B is the changes to the contract. She stated that Ms. Kathy Samson did a synopsis of the modifications; some have potential to increase and others to decrease. These modifications have been agreed upon by AEGON. EIAC has reviewed the proposed modifications and recommends approval by the Board. Ms. Minnehan also stated that we will be looking at going out for an RFP for the stable value near fund manager in the future.

Public comment: None.

Mr. Robert Griffith moved to uphold EIAC's recommendation and accept and adopt PIMCO proposed modifications. Modifications will become effective upon completion of contract addendums. Mr. Terry Smith seconded the motion. The motion carried 7 to 0.

**FY 2008 Budget Amendment** – Barb Quinn

Ms. Quinn stated that the budget amendment is the impact on wage increases. The impact to the budget is shown retroactive to October 1, 2007 and November 1, 2007. She then explained the layout of the spreadsheet to the Board members. The first part of the spreadsheet was previously approved by the Board. The second part of the chart shows with the increase, how it impacts the budget and amount under cap. This reflects market increases for non-union staff. Union staff were included in the original proposed and approved FY 2008 Budget. There was discussion regarding the cap and some concern for how close the budget is to the cap.

Public comment: None.

Mr. John Nielsen moved to adopt the FY2008 budget amendment, impacting personal services as a result of pay plan increases, effective October 2007. Mr. John Paull seconded the motion. The motion carried 7 to 0.

**Out-of-State Travel Authorization – NAPPA Winter Conference, February 6-8, Washington DC** – Scott Miller

Mr. John Paull moved to approve the out-of-state travel authorization allowing Mr. Scott Miller to attend the National Association of Public Pension Attorneys Winter Section Meeting, February 6-8, in Washington DC. Mr. Robert Griffith seconded the motion. The motion carried 7 to 0.

Public comment: None

**Actuarial Impact Request** – Roxanne Minnehan

Ms. Minnehan received a letter from the MPPA requesting our Actuary provide them with the figures of the impact of using total compensation in terms of increased contribution rates, not only to the members but to the city and state as well. She proposed gathering what information we can prior to going to the Actuary. Ms. Minnehan stated that the Board has a "Requests for Actuarial Information" policy that ties the Board's hands costing out proposed ideas. It was discussed that it can be done if they pay for it. To gather as much information as possible in-house and then determine if it would be worth going further or not was proposed. It was general consensus that this was the course of action that would be looked into. The Board was not in favor of changing the policy that they have in place regarding at this issue.

**Public Comment:** Mr. Jim Kembel introduced Ms. Pam Buey of MACOP. She will be replacing Mr. Kembel and will now be attending the PERB meetings.

**Medical Consultant Resignation** – Roxanne Minnehan

The Board's medical consultant, Dr. McEvoy is resigning. He has been with the Board as their consultant for 10-12 years. He is going to provide MPERA with a list of possible candidates to act as their consultant.

**MPERA Staffing** – Roxanne Minnehan

Ms. Minnehan reported on the following MPERA positions:

1. Active Database Manager – filled in-house with Shelly Pardis. She has been with MPERA since 2001 and was the backup to the Active Database Manager.
2. Active Database Support – filled in-house with Diana Stitt. She is currently a Benefits Technician with the DC/Education Services Bureau.
3. Data Entry Clerk – filled in-house with Kory Skinner. She has two years of experience with MPERA working at the front office.
4. File Clerk – is now open. We have started the hiring process. The position has been posted externally and closes on December 17, 2007.
5. Administrative Support – Member Services – the Job Profile is being created and reviewed.
6. Auditor – the recruitment process will be starting after the holidays.
7. Executive Assistant Position – has resigned. Anna has worked at MPERA for 8 months; her last day is tomorrow, December 14, 2007. The position has been posted externally and closed on December 10, 2007. Applications are now being reviewed.

**SAVA Meeting Update** – Roxanne Minnehan

MPERA did not attend the SAVA meeting due to it being shortened because of the ex Lieutenant Governor's funeral. There was however, a report regarding the MPPA lawsuit.

**Joint Issues Committee** – Jay Klawon

There was a lot of discussion regarding HB 771. Proposed legislation was also discussed. The Code of Ethics was discussed. The whole state is concentrating more on Ethics Policies and internal controls due to the fraud that has occurred within the state.

**Board of Investments Update** – John Paull

There was no update given due to the previous presentation given by Board of Investments.

**Litigation Update** – Scott Miller

Mr. Miller gave an update on the MPPA lawsuit – we are in Declaratory Judgment. PERB's motion to dismiss was filed on December 5, 2007. According to the Declaratory Judgment every party who has an interest in the case has to be made party to the case. Mr. Miller believes that all individuals who are members of the DROP program are necessary parties to this case. The MPPA has until December 18, 2007 to file their response.

**Future Board Meetings** – Thursday, January 10, 2008, Thursday, February 14, 2008 and Thursday, March 13, 2008.

### **Informational Summary Reports/Informational Items:**

Included in the Board packets were the following reports and informational items:

- Next SAVA Meeting – January 7, 2007
- Troy Police Ordinance
- Operational Summary Report – October FY 2008
- Retirement Plan Transfers
- DCRP Asset Projections Fiscal Year 2008
- DCRP Assets by Investment Option
- 457 Deferred Compensation Plan Assets by Investment Option

**The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceed the merits of public disclosure. As such, this portion of the meeting will be closed.**

### **SYNOPSIS OF THE CLOSED MEETING:**

#### **MINUTES OF CLOSED MEETING**

The minutes of the regular closed meeting of November 1, 2007 were presented. Mr. John Paull stated that Jay Klawon should be listed as calling the closed meeting to order as opposed to Mr. Paull. Mr. John Nielsen moved to approve the minutes with corrections of the November 1, 2007 meeting. Mr. Terry Smith seconded the motion, which upon being submitted to vote, was duly carried with all seven members voting aye.

### **Contested Cases**

#### **Informal Consideration – PERS, Service Purchase Appeal, GB**

GB requested to purchase one for five service in April of 1995 and initiated a 60 month payment schedule. The first year of One for Five service was paid in full in January of 2000, at which time the payroll clerk would have been notified to terminate all further additional payroll payments. On January 13, 2000 GB requested the cost for another year of One for Five Service, which was mailed on February 8, 2000. No action occurred. Starting in January 2000, each member requesting a service purchase by payroll deduction was required to complete an irrevocable payroll deduction election in order to have a payroll deduction for any service purchases. No payroll deduction form was received in 2000. GB completed the form; however, there is no signature of the employer representative initiating the deduction. GB is requesting to purchase One for Five service based on February 2000 cost statement as GB did not realize that the payroll clerk did not process the paperwork. Mr. Troy McGee moved to uphold staff recommendation that the cost statement from February 2000 is invalid. The additional payment of \$36.81 can be applied to the next cost statement or GB may receive a refund of the funds. A cost statement from over seven years ago cannot be utilized at this time. Mr. Robert Griffith seconded the motion. The motion carried 7 to 0.

#### **Informal Consideration – PERS-DCRP, Service Credit Appeal, FB**

FB is appealing staff decision that affects vesting for employer contributions in FB's PERS Defined Contribution Retirement Plan. Based upon data reported by FB's employers, FB has four years and 11 months of PERS membership service. Five years is required for a member to be vested and eligible to receive employer contributions upon termination and account withdrawal. Because FB's employment was temporary in nature between January 2002 and April 2002, membership was not mandatory. FB should have been given an Optional Membership Election Form to elect coverage if desired. FB is claiming that he was never given an Optional Membership Election Form to opt membership in the system. Mr. John Nielsen moved to uphold staff determination that FB's PERS membership was optional during the January through April 2002 timeframe and because FB did not file an optional membership form, membership was waived. FB did not obtain a vested status. Mr. Robert Griffith seconded the motion. The motion carried 4 to 3. Mr. Ray Peck, Mr. Terry Smith and Mr. John Paull voted nay.

#### **Informal Consideration – SRS, Disability Review Status, GS**

The Board approved GS's duty related disability claim without annual reviews on July 24, 2003. Ms. Flatow stated that she has received several phone calls from individuals about GS's participation in activities that go against being on disability. The Board was provided a printout from a website showing GS's participation in such activities. It was discussed that GS would be put on review and requested to send any new medical information if any exists. Mr. John Paull moved to place GS on annual review for disability. Mr. Terry Smith seconded the motion. The motion carried 7 to 0.

#### **Informal Consideration – FURS, Disability Retirement Calculation, JK**

JK recently retired on a disability from the Firefighters' Unified Retirement System (FURS). The disability estimate was for half pay. Due to the change in statutes, the amount of a disability benefit is inadvertently impacted for any firefighter with part paid firefighter service. JK is requesting to receive the estimated amount of half pay. The FURS statute will be modified in 2009 session to ensure this does not occur in the future to other part paid firefighters. Ms. Flatow recommended giving the disability benefit no less than half pay. The Board discussed the case. Mr. Troy McGee moved to uphold the staff recommendation and grant the increase in the retirement benefit. Mr. John Paull seconded the motion. The motion carried 7 to 0.

#### **Proposed Settlement – PERS, DOC Mandatory Bill, RK**

DOC submitted a letter asking for settlement. Mr. John Paull moved to uphold staff determination to uphold the computation of the mandatory bill that was sent for 8% interest. Mr. Ray Peck seconded the motion. The motion carried 7 to 0.

#### **Retirement Report**

- Disability Claims/Reviews:
  - TE has worked as a maintenance Technician. TE has been diagnosed with chronic low back pain and lumbar radiculopathy and depression. Dr. McEvoy has reviewed the case and states that the job exceeds TE's work restrictions. TE had months of physical

therapy, trigger point injections, and epidural steroids, and has been on multiple medicines and continues to have back pain and may have some radiculopathy and foot drop on the right side. Dr. McEvoy believes TE is limited to light work. The condition is not expected to improve and therefore, annual reviews are not necessary. The Disability Examiner believes that with the lumbar radiculopathy causing pain, TE is unable to continue in the maintenance technician position and recommends approval without annual review. Mr. John Paull moved to approve request for disability without annual review. Mr. Terry Smith seconded the motion. The motion carried 7 to 0.

- GH has worked as a Custodial monitor. GH has been diagnosed with osteoarthritis of both knees. Dr. McEvoy has reviewed the case and states that GH's knees are so bothersome that Dr. McEvoy does not think GH can do anything more than sedentary work. The Disability Examiner agrees with Dr. McEvoy and stated that she does not feel annual reviews are necessary. Mr. Robert Griffith moved to approve request for disability without annual review. Mr. John Nielsen seconded the motion. The motion carried 7 to 0.
  - MM has worked as an LPN. MM has been diagnosed with stage IV advanced non-small cell cancer of the lung with liver metastases. Dr. McEvoy has reviewed the case and states that he does not believe MM can do her usual work. The Disability Examiner agrees with Dr. McEvoy and states that annual reviews are not recommended as the condition is not expected to improve. Mr. John Paull moved to approve request for disability without annual review. Mr. Terry Smith seconded the motion. The motion carried 7 to 0.
  - SM has worked as a Wild Animal Caretaker. SM has been diagnosed with an above knee amputation, low back strain, psoriasis and infections at amputation site. Dr. McEvoy has reviewed the case and states that the only records available to him are four unsigned notes, presumably from Dr. Gary Blom a Helena Chiropractor, which date from October and November of 2001. Dr. McEvoy states that we need any and all records for three years proceeding SM's last date of work for the state of Montana. The Disability Examiner states that in 2002 SM filed for both social security disability and our disability benefits. MPERA staff wrote and told SM we did not have enough information to accept the claim and requested SM contact our office. We did not hear back until reapplied in 2007. She recommends the Board request the claimant provide additional medical information for the application, proving a continued disability. Mr. John Paull moved to request the claimant provide additional medical information for application, proving a continued disability. Mr. John Nielsen seconded the motion. The motion carried 7 to 0.
  - Finalized Service Retirements Disability Benefit Payments
- The Finalized Service Retirements/Disability Benefit Payments report was presented. Ms. Flatow pointed out that the two individuals listed under VFCA Lump Sum are not lump sum but should be under the regular benefit payment list. Mr. Terry Smith made a motion to approve the finalized service retirements and disability benefit payments with corrections. The motion was seconded by Mr. Robert Griffith. The motion carried 7 to 0.

**Contested Case/Litigation Updates** – Scott Miller

Mr. Scott Miller reported on the *TT* case – The case has been settled.

Mr. Scott Miller reported on the *MANG* case – Have not heard anything regarding the case.

Mr. Scott Miller reported on the *LGSD* – There were a few discrepancies found.

Mr. Scott Miller reported on the *SW* contested case – SW submitted a list of questions to us.

Mr. Scott Miller reported on the *RM* contested case – The case is still effective.

Mr. Scott Miller reported on the *JK* contested case – They are in discovery, which ends December 17, 2007.

Mr. Scott Miller reported on the *KI* contested case – KI has asked that the case be dismissed, nothing in writing as of yet.

Mr. Scott Miller reported on the *MB* contested case – MB has asked for the contested case proceedings to be dismissed and to return to the Board for reconsideration in January.

Mr. Scott Miller reported on the *VFCA* case – They appealed.

Mr. Scott Miller reported on the *MPPA* case – The Board discussed some different options of action regarding this case.

**ADJOURNMENT**

There being no further business before the Board, Mr. Robert Griffith moved to adjourn the meeting. Mr. Terry Smith seconded the motion. Mr. Jay Klawon adjourned the meeting at approximately 1:20 p.m. The next regular meeting is scheduled for January 10, 2007, at 8:30 a.m. in Helena.

**ATTACHMENTS:**

Investment Portfolio Summary:

Public Employees Retirement System Investment Report:

STIP Memorandum: